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PTO/SB/21 (09-04)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	5	Attorney Docket Number	033988R003
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ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for New (Non-Final) Office Action
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Smith, Gambrell & Russell		
Signature			
Printed Name	Dennis C. Rodgers		
Date	December 5, 2006	Reg. No.	32,936

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name			
	Date		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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FEE TRANSMITTAL for FY 2006

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

\$ 250.00

Complete if Known

Application Number	09/011,160
Filing Date	January 20, 1998
First Named Inventor	Harold HALL
Examiner Name	Terry K. Cecil
Art Unit	1723
Attorney Docket No.	033998R003

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Other None
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SMITH, GAMBRELL & RUSSELL

The Director is authorized to: (check all that apply)

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FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)	Fee Description	
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 120	2251 60	Extension for reply within first month	
1252 450	2252 225	Extension for reply within second month	
1253 1,020	2253 510	Extension for reply within third month	
1254 1,590	2254 795	Extension for reply within fourth month	
1255 2,160	2255 1,080	Extension for reply within fifth month	
1401 500	2401 250	Notice of Appeal	250.00
1402 340	2402 170	Filing a brief in support of an appeal	
1403 300	2403 150	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive – unavoidable	
1453 1,370	2453 685	Petition to revive – unintentional	
1501 1,370	2501 685	Utility issue fee (or reissue)	
1502 490	2502 245	Design issue fee	
1503 660	2503 330	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17 (q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810 790	2810 395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801 790	2801 395	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) \$250.00

**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Dennis C. Rodgers	Registration No. (Attorney/Agent)	32,936	Telephone	202 263 4300
Signature				Date	December 5, 2006

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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Attorney Docket No. 033988R003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Harold HALL Confirmation No.: 9528
Serial No.: 09/011,160 Group Art Unit: 1723
Filed: January 20, 1998 Examiner: Terry K. Cecil
For : A MAGNETIC FILTRATION DEVICE

REQUEST FOR NEW (NON-FINAL) OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The First Action Final, has been received and its contents carefully noted.

This First Office Action (following a filing of an RCE with accompanying Preliminary Amendment with claim revisions made in the Preliminary Amendment) was made final. The imposition of finality in this case is respectfully submitted to be improper; and thus withdrawal of the Final Office Action and replacement with a new Non-Final Office Action is respectfully requested. The grounds set forth for making the first action final was that the claimed invention set forth in the post RCE application was directed at the "same invention" as that in the pre-RCE filing application.

This assertion is respectfully traversed. As an example useful in analyzing the criteria involved in what constitutes a "same invention" reference is made to the statutory double patenting discussion of that term set forth below.

804 Definition of Double Patenting [R-3] - 800 Restriction in Applications Filed Under 35 U.S.C. 111; Double Patenting

U.S. Application Serial No. 09/011,160
Attorney Docket No. 033988R003

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor" Thus, the term "same invention," in this context, means an invention drawn to identical subject matter

A comparison of the Preliminary Amendment claims to the claims directly preceding that filing reveals at least one non-identical subject matter claim. Accordingly, withdrawal of the finality status of the present case and entry of the claim amendments presented herein is respectfully requested.

The revising of the first Action Final to a Non-Final Action, will also facilitate prosecution in this case in providing both the Office and the Applicant greater flexibility in seeking a final conclusion relative to the present invention.

A Notice of Appeal is being filed under separate cover to maintain pendency while this request is considered.

Respectfully submitted,
SMITH, GAMBRELL & RUSSELL, LLP

By:



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Date: December 5, 2006